

COURT OF APPEAL OF STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE

August 21, 2000

**D032396        People v. Ho**

**D034453        In re Ho on Habeas Corpus**

The petition for writ of habeas corpus In re Ho, D034453, is consolidated with the appeal People v. Ho, D032396, for disposition.

**D032396        People v. Ho**

**D034453        In re Ho on Habeas Corpus**

The judgment is affirmed. The habeas corpus petition is denied. O'Rourke, J.;  
We Concur: Huffman, Acting P.J., McDonald, J.

**D034094        In re Ruben G., a Juvenile**

The petition for rehearing is denied.

**D033684        People v. Murillo**

**D034524        People v. Murillo**

The judgment is affirmed. Work, Acting P.J.; We Concur: Benke, J., Huffman, J.

**D034216        People v. Brown**

Upon filing an abandonment of appeal, personally signed by the defendant, the appeal is dismissed and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 38).

**D034029        People v. Pratt**

The judgment is affirmed. Haller, J.; We Concur: Work, Acting P.J., Benke, J.

**D033249        Griffiths v. Mercy Hospital et al.**

We affirm the court's grant of summary adjudication of Griffiths's sixth cause of action for violation of an implied-in-fact contract and Griffiths's second cause of action for disparate treatment due to sexual orientation. We reversed the court's grant of summary adjudication of Griffiths's first cause of action for sexual orientation discrimination. We direct the court to vacate its order denying Griffiths's motion for leave to file the third amended complaint. We direct the court to enter a new order granting the motion. Respondents to bear costs on appeal. O'Rourke, J.; I concur: Benke, Acting P.J.,  
I concur in the result: Huffman, J.

**D035860        In re Rubio on Habeas Corpus**

The petition is denied.

**D036024        People, etc v. San Diego County Superior Court/Preciado**

For good cause shown the Superior Court of San Diego County is ordered to show cause why the relief requested should not be granted. Absent objection on or before August 25, 2000, the informal brief filed by real party be deemed the return to the order to show cause. The People may file a reply on or before September 4, 2000. Oral argument will be waived unless requested on or before September 6, 2000.

**D034802        McAfee v. McClinchey**

Appellant has failed to file a brief after notice given pursuant to California Rules of Court, rule 17(a). The appeal is dismissed.

COURT OF APPEAL OF STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE

August 21, 2000 (Continued)

**D035971          Conservatorship of the Person and Estate of Waters**

On the Court's own motion, this court's order of August 15, 2000, dismissing the above-entitled appeal is vacated and the appeal is reinstated.

**D030787          C. W. Ives Construction, Inc. v. Kvaas Construction Company, Inc.**

**D031586          C. W. Ives Construction, Inc. v. Kvaas Construction Company, Inc.**

The opinion filed July 28, 2000 is modified, there is no change in judgment. The petition for rehearing is denied.

COURT OF APPEAL OF STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE

August 22, 2000

**D034550        People v. Walker**

The judgment is affirmed. Haller, J.; We Concur: Kremer, P.J., Benke, J.

**D034506        People v. Martinez**

The trial court is ordered to modify the abstract of judgment to reflect the sentence imposed, life with the possibility of parole plus a determinate term of 17 years and eight months. The judgment is affirmed as modified. Work, J.; We Concur: Kremer, P.J., O'Rourke, J.

**D034465        People v. Davis**

The judgment is affirmed. Work, J.; We Concur: Kremer, P.J., McDonald, J.

**D033685        People v. Gonzalez**

The judgment is affirmed as modified. O'Rourke, J.; We Concur: Kremer, P.J., Work, J.

**D033400        People v. Rossi**

**D035880        In re Rossi on Habeas Corpus**

The appeal is dismissed; the petition for writ of habeas corpus is granted. Work, J.;  
We Concur: Kremer, P. J., Huffman, J.

**D035873        In re Sutton on Habeas Corpus**

The petition is denied.

**D033850        People v. Blye**

Judgment affirmed. Kremer, P.J.; We Concur: Work, J., O'Rourke, J.

**D033959        In re Kevin H., a Juvenile**

The juvenile court's order is affirmed. Work, J.; We Concur: Kremer, P.J., Huffman, J.

**D035919        Warren et al. v. Sharabi**

The petition is denied. The stay issued July 3, 2000 is vacated.

**D035261        People v. Childs**

Upon filing an abandonment of appeal, personally signed by the defendant, the appeal is dismissed and the remittitur is ordered to issue immediately.

**D034686        People v. Harper**

Judgment affirmed. McDonald, J.; We Concur: Kremer, P.J., Haller, J.

**D033666        People v. Nourbakhsh**

The judgment is affirmed. Benke, J.; We Concur: Kremer, P.J., McDonald, J.

**D034287        Kirkorowicz et al. v. California Coastal Commission**

The judgment is reversed. The Commission is entitled to costs on appeal. Work, J.;  
We Concur: Kremer, P.J., Nares, J.

COURT OF APPEAL OF STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE

August 22, 2000 (Continued)

**D034108      People v. Johnson**

The judgment is reversed and remanded with instructions. Kremer, P.J.; We Concur: Huffman, J., O'Rourke, J.

**D033714      Postal Annex +, Inc. v. Ocie Henderson**

The judgment is affirmed. Sanctions are imposed jointly on Henderson and the firm of Kolodny & Pressman in the amount of \$6,123.50 payable to Postal Annex. Postal Annex is also entitled to costs on appeal.

**D033195      Anserv Insurance Services, Inc., et al. v. California Department of Insurance**

The opinion filed August 7, 2000, is ordered certified for publication.

**D033292      People v. Whitmore**

The sentence of probation for six years is reversed with directions to impose a five-year probationary period. In all other respects, the judgment is affirmed. O'Rourke, J.; We Concur: Work, Acting P.J., Haller, J.

**D033572      People v. Garcia**

The judgment is affirmed. Work, J.; We Concur: Kremer, P.J., O'Rourke, J.

**D033573      People v. Currier**

We affirm the convictions and sentence but for the restitution order. The restitution order is modified to strike restitution to Martin and otherwise affirmed. The trial court shall advise the Department of Corrections of the modification. O'Rourke, J.; We Concur: Kremer, P.J., Huffman, J.

**D033773      People v. Sandez**

The judgment is modified by staying the sentence for count 2. The trial court is directed to modify the abstract of judgment accordingly and forward it to the Department of Corrections. As modified, the judgment is affirmed. O'Rourke, J.; We Concur: Work, Acting P.J., Haller, J.

COURT OF APPEAL OF STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE

August 23, 2000

Court convened at 10:00 a.m.

Present: The Honorable Don Work, Acting Presiding Justice, and The Honorable Associate Justices  
Judith Haller and Terry O'Rourke  
Deputy Clerk: D. E. Moore

**D033817        Carlsbad Aquafarm, Inc. v. State of California**

Cause called on merits. William A. Buess, Deputy Attorney General argued for appellant. Jeffrey  
Stephen Young, Esq. argued for respondent. Mr. Buess replied for appellant. Cause submitted.

Court adjourned at 10:45 a.m.

D034714        In re Augustine R., a Juvenile

The judgment (order of commitment) is affirmed. Benke, J., We Concur: Haller, J., McDonald, J.

**D036120        McBane v. Magat**

The appellant having failed to timely pay the filing fee, the appeal is dismissed. (Cal. Rules of Court, rule  
1(c) and 10(a).)

**D035594        Guillermo R. v. San Diego County Superior Court/San Diego County Health and  
Human Services Agency.**

The petition is denied. McDonald, J.; We Concur: Work, Acting P.J., O'Rourke, J.

**D036162        People v. Romayer**

**D035973        In re Romayer on Habeas Corpus**

The unopposed motion for consolidation of the above-entitled cases is granted.

COURT OF APPEAL OF STATE OF CALIFORNIA  
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DIVISION ONE

August 24, 2000

**D033530      People v. Neiber**

The judgment is affirmed. Work, Acting P.J.; We Concur: Haller, J., O'Rourke, J.

**D034582      People v. Roy E., a Juvenile**

The judgment (order of commitment) is affirmed. Benke, J.; We Concur: Work, Acting P.J., McDonald, J.

**D034162      People v. Craig**

The judgment is affirmed. Benke, J.; We Concur: Work, Acting P.J., Haller, J.

**D035525      People v. Godfrey**

Upon filing an abandonment of appeal, personally signed by the defendant, the appeal is dismissed and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 38).

**D034245      People v. Mohr**

The judgment is affirmed. Haller, J.; We Concur: Kremer, P.J., McDonald, J.

**D035482      People v. Johnson**

**D036145      In re Johnson on Habeas Corpus**

The pending petition for writ of habeas corpus, In re Johnson, D036145, is consolidated with the pending appeal, People v. Johnson, D035482, for disposition. Appellate Defenders, Inc., is directed to amend the appointment of attorney Steven A. Seick to include representation of appellant in the habeas corpus proceedings.

D033804      In re Hall on Habeas Corpus

The petition for reconsideration is denied.

**D032383      Friary et al. v. Owens Corning Corporation**

The request for publication of the opinion is denied.

**D036186      Martin v. San Diego County Superior Court/Cox Communications et al.**

The petition is denied.

**D035705      In re Jacob S., a Juvenile**

The appeal is dismissed. McDonald, J.; We Concur: Work, Acting P.J., O'Rourke, J.

COURT OF APPEAL OF STATE OF CALIFORNIA  
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DIVISION ONE

August 25, 2000

**D033886        In re Mario G., a Juvenile**

The judgment is reversed and remanded. Work, Acting P.J.; We Concur: Huffman, J., O'Rourke, J.

**D034997        People v. Bernal**

Judgment affirmed. Kremer, P.J.; We Concur: Work, J., O'Rourke, J.

**D036119        Rodriguez et al. v. Reed**

Pursuant to California Rules of Court, rule 10(c), the appeal filed July 24, 2000, is dismissed for appellant's failure to timely designate the record (Cal. Rules of Court, rules 4(a) and 5(a)).

**D035733        In re Kraylyn R., a Juvenile**

The appeal is dismissed. McDonald, J.; We Concur: Work, Acting P.J., O'Rourke, J.

D035734        In re Tosh M., a Juvenile

The appeal is dismissed. McDonald, J.; We Concur: Work, Acting P.J., O'Rourke, J.

**D035262        Rosi et al. v. Dupont et al.**

Upon written stipulation filed by the parties to the appeal, the appeal is dismissed and the remittitur is ordered to issue immediately. Each party to bear own costs on appeal.

**D033347        Fire Insurance Exchange v. Hammond et al.**

The judgment is reversed. Certified for publication. Haller, J.; We Concur: Work, Acting P.J., McDonald, J.

D035624        In re Gates on Habeas Corpus

The petition is denied.

**D035511        In re Lilyana H., a Juvenile**

The appeal is dismissed. McDonald, J.; We Concur: Work, Acting P.J., O'Rourke, J.

**D034202        People v. Mata**

The judgment is affirmed. Huffman, J.; We Concur: Work, Acting P.J., O'Rourke, J.

**D033929        People v. Carr**

The judgment is affirmed. Benke, Acting P.J.; We Concur: Huffman, J., McIntyre, J.

**D033848        People v. Byrd**

The judgment is affirmed. McIntyre, J.; We Concur: Kremer, P.J., Haller, J.

**D034648        People v. Pollock**

The judgment is affirmed. Benke, J.; We Concur: Haller, J., McIntyre, J.

**D035927        In re Castillo on Habeas Corpus**

The petition is denied.

COURT OF APPEAL OF STATE OF CALIFORNIA  
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DIVISION ONE

August 25, 2000 (Continued)

**D035968        In re McDonald on Habeas Corpus**

The petition is dismissed without prejudice to refiling should counsel fail to raise issues petitioner considers essential to his appeal.

**D035577        7-Eleven, Inc. v. Alcoholic Beverage Control Appeals Board/Department of Alcoholic Beverage Control.**

The petition is dismissed without prejudice to refiling after a final order is filed.

**D035628        In re Holmes on Habeas Corpus**

The petition is denied.

**D035972        In re Jackson on Habeas Corpus.**

The petition is denied.

**D034135        Vista Irrigation District v. Viol et al.**

Pursuant to the motion to consider additional evidence or for writ of coram vobis filed by Vista Irrigation District, the appeal is dismissed and the matter is remanded to superior court with directions to vacate the judgment and conduct further proceedings in light of the newly discovered evidence cited in the motion.

**D035592        Acelyn M. et al. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency**

Let a writ issue directing the superior court to vacate its order denying reunification services as to Acelyn and setting a selection and implementation hearing. The court is to enter a new order providing Acelyn with reunification services. The petition is denied as to Juan. This opinion is final immediately as to this court. Work, Acting P.J.; We Concur: Benke, J., O'Rourke, J.